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Response

Applicant(s): Baumann et al.

Serial No.: 10/798,616

Confirmation No.: 6205

Filed: March 11, 2004

For: DECK ASSEMBLY FOR A SELF-PROPELLED, WALK-BEHIND ROTARY LAWN MOWER**Remarks**

The Office Action of October 26, 2004 has been received and reviewed. With no claims having been amended, added, or canceled, the pending claims remain claims 6-31, with claims 6-13 and 25-31 withdrawn from consideration. Reconsideration and withdrawal of the rejections are respectfully requested for at least the reasons set forth below.

Restriction Requirement

A Restriction Requirement under 35 U.S.C. § 121 was issued in the above-identified application. Applicants elected, with traverse, Group II (claims 14-24) in a response filed August 23, 2004. Claims 6-13 and 25-31 remain pending but withdrawn from consideration.

The 35 U.S.C. §102 Rejection

Claims 14-23 were rejected under 35 U.S.C. §102(b) as being anticipated by Scag (U.S. Patent No. 4,146,105). Applicants traverse this rejection for at least the following reasons.

A claim is anticipated only where each and every element of the claim is found in a single prior art document (*see*, M.P.E.P. § 2131).

Independent claim 14 recites, a deck assembly having: a deck defining a cutting chamber operable to house a cutting member, wherein the cutting chamber is bound at least in part by a rear enclosure member; and a rectangular rear discharge port located on a rear portion of the deck. The deck assembly further includes "a duct of substantially rectangular cross section extending through the rear enclosure member between the cutting chamber and the rectangular rear discharge port, the duct defining a duct axis that is substantially parallel to a longitudinal axis of the mower."

Scag discloses a drive system for a power lawn mower wherein the mower includes a mower deck 12 (see Figure 3). However, Scag fails to teach each and every element of claim 14. For example, while the mower deck 12 includes a chute 31 (see Figure 3), the chute 31 of Scag clearly fails to define an axis that is "substantially parallel to a longitudinal axis of the mower."

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Rather, an axis of the chute 31 extends upwardly and to one side of the mower as evident in Figure 3.

For at least this reason, Scag fails to anticipate independent claim 14. It is further submitted that claims 15-23 are novel not only in view of their dependence, but also because of the particular subject matter recited therein. Reconsideration and withdrawal of the rejection are, therefore, requested.

The 35 U.S.C. §103 Rejection

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

M.P.E.P. § 2143.

Claim 24 was rejected under 35 U.S.C. §103(a) as being unpatentable over Scag in view of Sugden et al. (U.S. Patent No. 6,192,666). Applicants traverse this rejection for at least the following reasons.

As set forth above in the response to the 35 U.S.C. §102(b) rejection of claims 14-23, Scag fails to disclose, or even suggest, each and every recitation found in the claims (e.g., fails to disclose, or suggest, a duct defining a duct axis that is substantially parallel to a longitudinal axis of the mower). There is nothing identified within the disclosure of Sugden et al. that remedies this deficiency. Accordingly, the combination of Scag and Sugden et al. fails to teach or suggest all the claim recitations and, therefore, fails to render claim 24 obvious.

Reconsideration and allowance of claim 24 are requested.

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It is submitted that claims 14-24 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted by

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 26th day of January, 2005, at 1:50pm (Central Time).

By: Sara E. OlsonName: Sara E. Olson